

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Bail Appl..No. 4734 of 2007()

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(AGAINST CRIME NO.253/07 OF THAMPANOOR POLICE STATION)**

PETITIONER/ACCUSED:

**NAJIMUDEEN @ NAJEEB, S/O.SAINULABDEEN,
T.C.46/515, THAHIRA MANZIL, VALLI STREET,
POONTHURA P.O., THIRUVANANTHAPURAM.**

BY ADV. SRI.M.SREEKUMAR

RESPONDENTS: STATE & COMPLAINANT:

- 1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**
- 2. THE SUB INSPECTOR OF POLICE,
THAMPANOOR POLICE STATION.**

BY PUBLIC PROSECUTOR SRI. S.U. NAZER

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 07/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

R.BASANT, J.

B.A.No.4734 of 2007

Dated this the 7th day of August 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Section 420 I.P.C. The crime has been registered on the basis of a private complaint filed before the learned Magistrate and referred to the police under Section 156 (3) Cr.P.C. Investigation is in progress. The crux of the allegations is that amounts handed over by the complainant to the accused for securing visas have not been returned. Passports handed over have also not been returned. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioner submits that the dispute between the complainant and the petitioner have all been settled already. Dispute was regarding return of the passport and money to the de facto complainant by the petitioner. The same having been settled, there is absolutely no justification for any arrest and detention of the petitioner.

Appropriate direction under Section 438 Cr.P.C may be issued in favour of the petitioner, it is prayed.

3. The learned Public Prosecutor does not oppose the application. The learned Public Prosecutor submits that the complainant does not appear to be interested in the prosecution of his complaint. The accused was available for questioning. On his questioning, it appears that the matter has been settled and all the disputes have been resolved. In these circumstances, anticipatory bail can be granted to the petitioner subject to appropriate conditions, submits the learned Public Prosecutor.

4. In the circumstances explained above, I am satisfied that appropriate directions under Section 438 Cr.P.C can be issued in favour of the petitioner. This petition is accordingly allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 14/08/2007.

ii) He shall be released on regular bail on condition that he executes bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the

satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 14/08/2007, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 14/08/2007.

(R.BASANT, JUDGE)

jsr

// True Copy//

PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007